

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0010.03 Christy Chase x2008

HOUSE BILL 17-1318

HOUSE SPONSORSHIP

Ginal, Jackson, Becker K., Buckner, Esgar, Hooton, Kennedy, Lontine

SENATE SPONSORSHIP

Coram and Kefalas,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN ANNUAL REPORT ON PHARMACEUTICAL COSTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

By March 31, 2018, and by each March 31 thereafter through March 31, 2020, the bill requires health insurers to submit to the commissioner of insurance (commissioner) information regarding pharmaceuticals covered under individual and group health insurance plans in prior years. Carriers are to report the following information, separately stated with regard to individual and group market segments:

! The total pharmaceutical costs, including cost-sharing amounts paid by insured persons, and the net

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

pharmaceuticals costs, after negotiated rebates and discounts;

! The net cost of pharmaceuticals, expressed as a percentage of total medical costs; and

! A list of the drug classes of the 10 pharmaceuticals that were most dispensed and had the highest aggregate cost.

The bill also requires carriers providing or administering state group benefit plans for state employees to report the pharmaceutical cost data.

The commissioner is directed to aggregate and analyze the data and submit an annual report to the governor and specified legislative committees on trends in pharmaceutical costs in the insurance market, including most-prescribed and highest-cost pharmaceuticals.

The commissioner is authorized to adopt rules as necessary to implement the requirements of the bill. The reporting requirements are repealed on January 31, 2021.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and determines that:

4 (a) A principal purpose of health insurance is to protect
5 individuals from the high costs of health care;

6 (b) Health care costs and health insurance premiums have
7 increased significantly over the past decade;

8 (c) While increasing health care costs contribute to increases in
9 health insurance premiums, the main focus of increasing costs has been
10 directed at health insurers;

11 (d) A component of health care costs that drives health insurance
12 premiums is the cost of prescription medications;

13 (e) Information reported by America's Health Insurance Plans
14 indicates that the dramatic increases in prescription drug costs are
15 contributing to higher insurance premiums, deductibles, and cost-sharing
16 amounts;

1 (f) Large price increases in frequently prescribed medications are
2 having a significant impact on consumers, particularly on patients who
3 have been taking certain brand or generic drugs for years and are now
4 finding that their necessary medications are unaffordable; and

5 (g) Health insurance plans cannot absorb the increasing
6 prescription drug costs without making adjustments to premiums and
7 cost-sharing requirements.

8 (2) Therefore, the general assembly declares that the intent of this
9 act is to provide:

10 (a) Pharmaceutical costs data collected by the division of
11 insurance from health insurers to policymakers as a first step in helping
12 identify policy solutions to address the rising costs of prescription drugs
13 while still promoting and encouraging innovation and the development
14 of new therapies in health care; and

15 (b) Health insurers and pharmaceutical companies with more
16 transparency in order to achieve more sustainable pricing of prescription
17 drugs for patients.

18 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-145 as
19 follows:

20 **10-16-145. Annual reports on pharmaceutical costs - rules -**
21 **repeal.** (1) (a) BY MARCH 31, 2018, AND BY EACH MARCH 31
22 THEREAFTER THROUGH MARCH 31, 2020, A CARRIER SUBJECT TO PART 2,
23 3, OR 4 OF THIS ARTICLE 16 THAT IS OFFERING HEALTH BENEFIT PLANS IN
24 COLORADO SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER
25 CONTAINING THE INFORMATION SPECIFIED IN SUBSECTION (2) OF THIS
26 SECTION REGARDING PHARMACEUTICAL COSTS INCURRED IN THE
27 IMMEDIATELY PRECEDING CALENDAR YEAR EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION.

2 (b) A CARRIER SHALL REPORT THE DATA SPECIFIED IN SUBSECTION
3 (2) OF THIS SECTION SEPARATELY FOR THE INDIVIDUAL AND GROUP
4 MARKET SEGMENTS.

5 (c) FOR THE INITIAL REPORT SUBMITTED BY A CARRIER IN 2018,
6 THE CARRIER SHALL INCLUDE THE DATA SPECIFIED IN SUBSECTION (2) OF
7 THIS SECTION FOR THE 2015, 2016, AND 2017 CALENDAR YEARS.

8 (d) A CARRIER THAT PROVIDES OR ADMINISTERS A GROUP BENEFIT
9 PLAN FOR STATE EMPLOYEES PURSUANT TO PART 6 OF ARTICLE 50 OF TITLE
10 24 SHALL REPORT THE INFORMATION SPECIFIED IN SUBSECTION (2) OF THIS
11 SECTION TO THE COMMISSIONER ANNUALLY IN THE SAME MANNER AND BY
12 THE SAME DATES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

13 (2) A CARRIER SUBJECT TO THIS SECTION SHALL REPORT THE
14 FOLLOWING INFORMATION TO THE COMMISSIONER:

15 (a) THE TOTAL PHARMACEUTICAL COSTS INCURRED, INCLUDING
16 CONSUMER DEDUCTIBLE, COPAYMENT, AND COINSURANCE AMOUNTS, AND
17 THE NET PHARMACEUTICAL COSTS INCURRED AFTER ALL NEGOTIATED
18 DISCOUNTS AND REBATES;

19 (b) THE NET COST OF PHARMACEUTICALS AS A PERCENTAGE OF ALL
20 MEDICAL COSTS;

21 (c) A LIST OF THE DRUG CLASSES OF THE TEN MOST-DISPENSED
22 PHARMACEUTICALS IN EACH OF THE FOLLOWING CATEGORIES, WITH THE
23 AGGREGATE COST OF EACH PHARMACEUTICAL AND THE NUMBER OF
24 UNIQUE COVERED PERSONS RECEIVING THE PHARMACEUTICAL:

25 (I) BRAND-NAME DRUGS;

26 (II) GENERIC DRUGS;

27 (III) BIOLOGICAL PRODUCTS, AS DEFINED IN SECTION 12-42.5-102

1 (3.7); AND

2 (IV) INTERCHANGEABLE BIOLOGICAL PRODUCTS, AS DESCRIBED IN
3 SECTION 12-42.5-102 (16.5); AND

4 (d) A LIST OF THE DRUG CLASSES OF THE TEN PHARMACEUTICALS
5 THAT HAD THE HIGHEST AGGREGATE COST, THE NUMBER OF UNIQUE
6 COVERED PERSONS WHO RECEIVED A PHARMACEUTICAL ON THE LIST, THE
7 NET COST OF EACH PHARMACEUTICAL ON THE LIST, AND THE MEDICAL
8 CONDITION EACH PHARMACEUTICAL WAS PRESCRIBED TO TREAT.

9 (3) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE
10 COMMISSIONER SHALL MAINTAIN CONFIDENTIALITY OF THE INFORMATION
11 REPORTED UNDER THIS SECTION, AND THE INFORMATION IS NOT SUBJECT
12 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
13 24.

14 (4) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO
15 IMPLEMENT THIS SECTION.

16 (5) (a) (I) BY DECEMBER 1, 2018, AND BY EACH DECEMBER 1
17 THEREAFTER THROUGH DECEMBER 1, 2020, THE COMMISSIONER SHALL
18 SUBMIT A REPORT, IN AN AGGREGATED FORMAT, TO THE GOVERNOR, THE
19 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, AND THE HEALTH,
20 INSURANCE, AND ENVIRONMENT AND THE PUBLIC HEALTH CARE AND
21 HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES, OR
22 THEIR SUCCESSOR COMMITTEES, THAT ANALYZES PRIVATE INSURANCE
23 MARKET TRENDS IN PHARMACEUTICAL DRUG COSTS, INCLUDING THE
24 MOST-PRESCRIBED AND THE HIGHEST-COST PHARMACEUTICALS.

25 (II) IN THE REPORT, THE COMMISSIONER SHALL:

26 (A) AGGREGATE COST INFORMATION ACROSS ALL CARRIERS AND
27 ONLY DISCLOSE THE AGGREGATE COST OF A SPECIFIC PHARMACEUTICAL

1 FOR WHICH THERE IS MORE THAN ONE PHARMACEUTICAL IN ITS DRUG
2 CLASS AND ABOUT WHICH AT LEAST THREE CARRIERS REPORTED DATA
3 UNDER SUBSECTION (2) OF THIS SECTION;

4 (B) NOT DISCLOSE PRODUCT-SPECIFIC NET PRICE INFORMATION
5 THAT IS SPECIFIC TO AN INDIVIDUAL CARRIER OR HEALTH BENEFIT PLAN;
6 EXCEPT THAT THE COMMISSIONER MAY REPORT ON THE AGGREGATE COST
7 OF INDIVIDUAL DRUGS ACROSS ALL CARRIERS; AND

8 (C) NOT DISCLOSE THE NAMES OF INDIVIDUAL PHARMACEUTICAL
9 PRODUCTS, BUT SHALL IDENTIFY PHARMACEUTICALS BY THEIR DRUG
10 CLASS.

11 (b) THE COMMISSIONER SHALL NOT DISCLOSE ANY INDIVIDUAL
12 CARRIER OR PHARMACEUTICAL COMPANY NAMES IN THE REPORT
13 SUBMITTED UNDER THIS SUBSECTION (5).

14 (c) BEGINNING IN 2018, AND EVERY YEAR THEREAFTER THROUGH
15 2020, THE COMMISSIONER SHALL PRESENT THE REPORT REQUIRED BY THIS
16 SUBSECTION (5) AS PART OF THE DEPARTMENT OF REGULATORY AGENCIES'
17 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
18 TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY
19 SECTION 2-7-203.

20 (6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 31, 2021.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2018 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.